



10269-11CIP
(HSX/001 CIP2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants/ : Keiser et al.
Appellants

Application No. : 09/382,907 Confirmation No. : 5840

Filed : August 25, 1999

For : COMPUTER-IMPLEMENTED SECURITIES TRADING
SYSTEM WITH A VIRTUAL SPECIALIST FUNCTION

Group Art Unit : 3623

Examiner : Akiba K. Robinson Boyce

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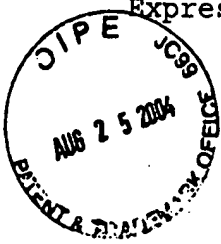
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REPLY BRIEF UNDER 37 C.F.R. § 1.193(b)

Sir:

Pursuant to 37 C.F.R. § 1.193(b), applicants/
appellants ("applicants") file this Reply Brief, in triplicate,
in response to the Examiner's Answer mailed July 2, 2004.

In view of the arguments and authorities set forth in
the Appeal Brief and hereinbelow, this Board should find the
rejections of claims 1, 3-9 and 11-14 of the above-identified
patent application to be in error, and should reverse those
rejections.

This Brief has the following appendix:

Appendix A: Copy of claims 1, 3-9 and 11-14 involved in this Appeal.

I. Introduction

Claims 1, 3-9 and 11-14 are pending and stand rejected in the present application. In the final Office Action mailed on April 30, 2003, claims 1, 3, 8, 9, 11, 13 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious from Nymeyer U.S. Patent No. 3,581,072 (hereinafter "Nymeyer") further in view of Fernholz U.S. Patent No. 5,819,238 (hereinafter "Fernholz"). Claims 4-7 and 12 were rejected as being obvious from Nymeyer in further view of Fernholz and further in view of Stein, et al U.S. Patent No. 5,826,241 (hereinafter "Stein").

Applicants filed an Appeal Brief on March 29, 2004, appealing from the final rejection of claims 1, 3-9 and 11-14. For the reasons set forth herein, applicants respectfully submit that the rejection of claims 1, 3-9 and 11-14 should be overturned by the Board of Patent Appeals. Specifically, this Reply Brief includes a restatement of portions of the Examiner's Answer of July 2, 2004, followed by applicants' comments thereon.

II. Argument

A. Nymeyer Does Not Generate Additional Orders.

Applicants' invention, as defined by exemplary independent claim 1, includes "automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders."

Nymeyer discusses three types of orders that a user can make - a buy order at a specific price, a sell order at a specific price, and a unpriced order at the market price. (Nymeyer, col. 2, lines 9-10, col. 4, lines 60-63). These "unpriced" orders "are effectively entered into the computation system at prices determined by the last selling price for the goods." (Nymeyer, Col. 11, lines 68-69). However, when the market price changes because buy and sell orders are executed, the "market price" assigned to these unpriced orders must be changed. Assigning market prices to these unpriced orders is defined in Nymeyer as "adding one minimum price increment to the closing price for buy orders and reducing the closing price by one minimum increment for sell orders." (Nymeyer, col. 11, lines 70-75).

The Examiner has interpreted the previously cited passage as follows: "Nymeyer discloses this [generating additional orders] step specifically in column 11, line 68 - column 12, line 3. Here Nymeyer discloses that 'at market' orders are determined by adding on a minimum price increment to the closing price for buy orders and reducing the closing price by one minimum increment for sell orders."

As can be seen in the portions of Nymeyer cited above, and applicants' comments thereon, the Examiner's interpretation of Nymeyer's discussion is mistaken. Nymeyer does not generate an additional order at all - Nymeyer allows existing market orders to follow changing market prices. Further support for applicants' interpretation of Nymeyer may be obtained from the following portion of the Nymeyer specification:

... the "at market" bids and offers should be entered ... approximately at the previous \$18.00 price, but within an effective trading range.

One manner in which this can be done is to enter the "at market" buy orders at a price slightly higher than the last sale price.... The increment selected for increasing the buy orders and decreasing the sell orders from the last market price should preferably be no more than the smallest fractional value normally utilized in transactions in the particular market in which the computation system 10 is employed.
(Nymeyer, col. 7, lines 49-61.)

Thus, according to Nymeyer, the price of market orders may be increased or decreased, but the market orders are not generated.

Applicants' invention, as defined by claim 1, automatically generates additional buy and sell orders. Nymeyer does not automatically generate an order, but modifies an existing user "at market" order. The Examiner's argument that "'at market' orders are assigned based upon the market price, but are not assigned the market price" is irrelevant.

(Examiner's Answer, Page 8). The users in Nymeyer place an "at market order," not the system. Thus, no additional orders are automatically generated by Nymeyer. For at least this reason, applicants respectively submit that independent claim 1 is in condition for allowance.

For at least the above reasons, applicants' claim 1 is allowable over Nymeyer. The Examiner does not rely on any other references to reject the element of generating additional orders. Furthermore, claims 9 and 14, each of which include similar limitations as the limitation of claim 1 set forth above, are allowable as well. It follows that dependent claims 2-8 and 11-13, which depend from allowable claims 1 and 9, respectively, are also in condition for allowance.

B. Fernholz Does Not Show or Suggest Generating Additional Currency.

The Examiner further alleges that the limitation of generating electronic currency is "taught by Fernholz in Col. 12, lines 15-16 where the custodial bank is introduced.

Fernholz shows that the custodial bank holds cash in electronic form. Then, lines 23-25 disclose that the custodial bank updates cash balance in each portfolio."

Here, too, the Examiner is mistaken. Applicants' invention, as claimed, "generates electronic currency." Generating electronic currency is not transferring currency between banks/portfolios. Generating electronic currency is adding electronic currency to the market. In this instance, the Examiner did not fully grasp the invention, as claimed. Therefore, independent claims 1, 9 and 14 are allowable for this reason as well.

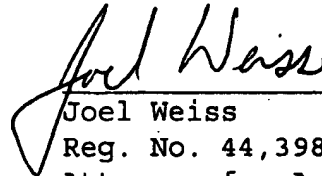
III. Conclusion

In view of the foregoing, it is believed that all pending claims 1, 3-9 and 11-14 are in proper condition for

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allowance, and the Board is respectfully requested to overturn
the Examiner's rejection of these claims.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joel Weiss", is written over a horizontal line.

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IV. APPENDIX

Claims Currently Pending

1. A method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy and sell orders;

crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader; and

debiting a second trader's account in the electronic currency for the executed buy orders by the second trader.

3. The method according to claim 1, further comprising exchanging the electronic currency in the first or second trader's account for desired currency.

4. The method according to claim 3, wherein the electronic currency are exchanged at a currency exchange web site, and wherein a request for the exchange is transmitted to the currency exchange web site via a secured communication.

5. The method according to claim 1, further comprising purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

6. The method according to claim 5, wherein a request for the purchase is transmitted to the vendor's web site via a secured communication.

7. The method according to claim 5, wherein the vendor debits the first or second trader's account in the electronic currency for the purchase of goods or services via a secured communication.

8. The method according to claim 1, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected

price movement is greater than or equals a predetermined price movement threshold.

9. A computerized trading system for trading a plurality of instruments via buy orders and sell orders, comprising:

means for measuring an imbalance between the buy orders and sell orders for an instrument received over a given period;

means for computing a projected price movement based on the measured imbalance between the number of buy and sell orders;

means for setting a market price for the instrument based upon the received buy and sell orders and the measured imbalance;

means for automatically generating additional buy orders or sell orders for the instrument at the market price to guarantee execution of some or all of the received buy or sell orders;

means for generating an electronic currency to execute the buy and sell orders; and

means for crediting a first trader's account with proceeds in the electronic currency for the executed sell orders by the first trader and for debiting a second trader's account

in the electronic currency for the executed buy orders by the second trader.

11. The system according to claim 9, further comprising means for exchanging the electronic currency in the first or second trader's account for desired currency.

12. The system according to claim 9, further comprising means for purchasing goods or services using the electronic currency in the first or second trader's account, the goods or services being offered for sale by an on-line vendor via a web site on the Internet.

13. The system according to claim 9, wherein the additional buy orders or sell orders for the instrument are automatically generated at the market price if the projected price movement is greater than or equals a predetermined price movement threshold.

14. A computer-readable storage medium for storing program code means for, when executed, causing a computer to perform a method for trading a plurality of instruments in a computerized trading system that receives buy orders and sell orders for an instrument, the method comprising:

measuring an imbalance between the buy orders and sell orders for the instrument received over a given period;

computing a projected price movement based on the
measured imbalance between the number of buy and sell orders;

setting a market price for the instrument based upon
the received buy and sell orders and the measured imbalance;

automatically generating additional buy orders or sell
orders for the instrument at the market price to guarantee
execution of some or all of the received buy or sell orders;

generating an electronic currency to execute the buy
and sell orders;

crediting a first trader's account with proceeds in
the electronic currency for the executed sell orders by the
first trader; and

debiting a second trader's account in the electronic
currency for the executed buy orders by the second trader.